

1 DAVID CHIU, State Bar #189542
City Attorney
2 MEREDITH B. OSBORN, State Bar #250467
Chief Trial Deputy
3 KAITLYN MURPHY, State Bar #293309
ALEXANDER J. HOLTZMAN, State Bar #311813
4 Deputy City Attorneys
Fox Plaza
5 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
6 Telephone: (415) 554-6762 [Murphy]
Telephone: (415) 554-3999 [Holtzman]
7 Facsimile: (415) 554-3837
Email: kaitlyn.murphy@sfcityatty.org
8 Email: alexander.holtzman@sfcityatty.org

9 Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO,
10 AND PAUL MIYAMOTO, IN HIS OFFICIAL
CAPACITY AS SAN FRANCISCO SHERIFF
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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION
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17 JOSHUA SIMON, DAVID BARBER, AND
JOSUE BONILLA, INDIVIDUALLY AND
18 ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED, DIANA BLOCK,
19 AN INDIVIDUAL AND COMMUNITY
RESOURCE INITIATIVE, AN
20 ORGANIZATION,

21 Plaintiffs,

22 vs.

23 CITY AND COUNTY OF SAN
FRANCISCO, PAUL MIYAMOTO, IN HIS
24 OFFICIAL CAPACITY AS SAN
FRANCISCO SHERIFF,

25 Defendants.
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Case No. 4:22-cv-05541-JST

**DECLARATION OF UNDERSHERIFF
KATHERINE JOHNSON IN SUPPORT OF
DEFENDANTS' RESPONSE TO THE
COURT'S ORDER REQUESTING
SUPPLEMENTAL BRIEFING (ECF NO. 56)**

Trial Date: Not Set

DECLARATION OF UNDERSHERIFF KATHERINE JOHNSON

I, KATHERINE JOHNSON, declare as follows:

1. I am the Undersheriff at the San Francisco Sheriff's Office ("SFSO"). As Undersheriff, I work with the Superior Court of the State of California, County of San Francisco ("Superior Court") concerning administration of the Pretrial Electronic Monitoring ("EM") Program. Except where otherwise indicated, the following facts are known to me personally, and if called upon as a witness, I would testify to them competently.

2. I submit this declaration to update the Court with information relevant to issues in this case as discussed in Defendants' Response to the Court's Order Requesting Supplemental Briefing.

3. I understand that the San Francisco Superior Court began using the revised template EM Program Order and admonition described in my May 2, 2023, declaration and attached thereto as Exhibits A and B, during the week of May 8, 2023.

4. Effective on or about May 16, 2023, I understand the Superior Court began using a version of the EM Program Order with limited further revisions. The only changes from the previous version submitted to the Court were stylistic, to correct typographic errors, and to remove defense counsel's signature based on an objection that I understand came from the Public Defender's Office. The EM Program Order still includes a signature from the criminal defendant agreeing "to enroll in the electronic monitoring program, follow the program rules, and have their movement tracked and recorded by the SFSO." The further revised order is attached to this declaration as **Exhibit A**.

5. On Friday May 12, 2023, the SFSO received two new EM Program enrollments where the Superior Court imposed an SFSO-only search condition without a broader warrantless search condition. In both cases, the SFSO entered the following new directive into the CLETS database:

DO NOT STOP DETAIN SEARCH OR ARREST BASED SOLELY ON THIS MESSAGE SUBJECT IS ON PRE-TRIAL EM SUPERVISED BY THE SFSO PROGRAMS UNIT REPORT ANY LAW ENFORCEMENT CONTACT TO SFSO AT 415-575-6461 THE SUBJECTS EM RELEASE ORDER DOES NOT GRANT AUTHORITY TO SEARCH THE SUBJECT UNLESS YOU RECEIVE SEARCH AUTHORIZATION FROM SFSO PROGRAMS UNIT TO SEEK SEARCH AUTHORIZATION BASED ON EM ORDER CALL THE NUMBER ABOVE

1 6. The SFSO plans to implement next week a new version of the printed Program Rules
2 provided to its clients that reflects the different potential scopes of four-way search conditions under
3 the Court's revised EM Program Order. With respect to criminal defendants placed on the EM
4 Program since May 8 with the more limited search condition, who were not specifically informed by
5 the SFSO of the limited search condition, the SFSO will make efforts to inform them of the applicable
6 limits.

7 7. In the coming weeks, the SFSO will formalize a revised policy regarding provision of
8 GPS data in response to an Electronic Monitoring Location Request. The SFSO intends to provide a
9 specific individual's location data to another law enforcement agency, absent a subpoena, only for
10 those individuals who are current participants in the EM Program or who have a warrant related to EM
11 Program noncompliance.

12 8. The SFSO also receives Electronic Monitoring Location Requests from other law
13 enforcement agencies to identify EM Program participants, if any, who were present within a limited
14 area at a certain time. Past EM Program participants may sometimes be identified in resulting reports.

15 9. Plaintiffs Joshua Simon, David Barber, and Josue Bonilla are no longer part of the EM
16 Program or subject to a warrantless search condition based on the EM Program. I understand from a
17 review of SFSO records that Simon left the EM Program on September 21, 2022, Barber left the EM
18 Program on October 31, 2022, and Bonilla left the EM Program on March 23, 2023. None have since
19 rejoined the EM Program.

20 I declare under penalty of perjury under the laws of the United States that the foregoing is true
21 and correct and that this declaration was executed on this 19th day of May, 2023, at San Francisco,
22 California.

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25 _____
26 UNDERSHERIFF KATHERINE JOHNSON
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